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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIFTH APPELLATE DISTRICT**

In re J.J., a Person Coming Under the Juvenile  
Court Law.

STANISLAUS COUNTY COMMUNITY  
SERVICES AGENCY,

Plaintiff and Respondent,

v.

C.J.,

Defendant and Appellant.

F077550

(Super. Ct. No. 518225)

**OPINION**

**THE COURT**\*

APPEAL from a judgment of the Superior Court of Stanislaus County. Ann Q. Ameral, Judge.

Alexis Collentine, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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\* Before Poochigian, Acting P.J., Meehan, J. and Snauffer, J.

On May 7, 2018, the juvenile court exercised its dependency jurisdiction over now nine-month-old J.J. at a dispositional hearing (Welf. & Inst. Code, § 358)<sup>1</sup> and ordered C.J. (mother) to participate in reunification services. Mother appealed. After reviewing the juvenile court record, mother's court-appointed counsel informed this court she could find no arguable issues to raise on mother's behalf. This court granted mother leave to personally file a letter setting forth a good cause showing that an arguable issue of reversible error exists. (*In re Phoenix H.* (2009) 47 Cal.4th 835, 844 (*Phoenix H.*.)

Mother submitted a letter in which she claims she was not provided proper notice of the proceedings or adequate legal counsel. She disputes allegations made by the Stanislaus County Community Services Agency (agency) regarding her prenatal care and the death of J.J.'s sibling in 2014. She attached medical documentation which we cannot review because it is extrajudicial evidence. (*In re Zeth S.* (2003) 31 Cal.4th 396, 413.)

We conclude mother failed to set forth a good cause showing that any arguable issue of reversible error arose from the dispositional hearing. (*Phoenix H.*, *supra*, 47 Cal.4th at p. 844.) Consequently, we dismiss the appeal.

### **PROCEDURAL AND FACTUAL SUMMARY**

In March 2018, the agency responded to a report that mother and newborn J.J. tested positive for opiates. Mother claimed to be taking a few pills she had left over from a 90-day prescription for Norco issued in June 2017. Her nurse believed she was taking the medication on a regular basis given J.J.'s neonatal abstinence scores. Mother had a history of methamphetamine and marijuana use.

A public health social worker who monitored mother's treatment said mother did not have custody of her firstborn son. In September 2014, she gave birth to a second son, G.J., who tested positive for methamphetamine. Mother agreed to voluntary family maintenance services, including a substance abuse assessment and random drug testing.

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<sup>1</sup> Statutory references are to the Welfare and Institutions Code.

However, she did not keep her appointments to assess her drug use and refused to drug test. In October 2014, G.J. died at seven weeks of age from sudden infant death syndrome (SIDS) and the agency closed the case.

The agency placed a protective hold on J.J. at the hospital because of mother's history and the maternal grandmother's refusal to allow the social worker to assess her home. The agency filed a dependency petition on J.J.'s behalf, alleging counts as to mother under section 300, subdivisions (b) (failure to protect) and (j) (abuse of sibling).<sup>2</sup> Specifically, it alleged under subdivision (b) that mother used unprescribed opiates while pregnant with J.J., had a history of methamphetamine and marijuana use and a criminal history of drug-related charges, attended only four prenatal visits, did not have layette items for J.J. and refused the social worker access to her home. It additionally alleged under subdivision (j) that G.J. tested positive for methamphetamine at birth and died at seven weeks of age from SIDS.

The juvenile court ordered J.J. detained pursuant to the petition and granted the agency discretion to release J.J. to mother's care if safe and appropriate to do so. The court subsequently appointed a guardian ad litem for mother.

In April 2018, at the jurisdictional hearing, mother's attorney made an offer of proof that mother was participating in parenting and substance abuse services. Mother denied having a history of methamphetamine use, claiming J.J.'s positive test results were a false positive. Mother also claimed that she pled no contest to drug charges under duress, took her medication as prescribed, attended 10 prenatal visits and had a bassinet, blankets, clothing and a stroller for J.J. The agency made an offer of proof that the social worker if called would testify that mother had not completed a substance abuse

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<sup>2</sup> The petition also alleged one count under section 300, subdivision (g) (no provision for support) as to J.J.'s father whose whereabouts were unknown.

assessment or submitted to hair follicle analysis. The juvenile court accepted the offers of proof.

The juvenile court found the allegations in the petition true and adjudged J.J. a dependent child as alleged. The court expressed its concern about J.J.'s positive results for opiates and mother's significant number of prior child welfare referrals, erratic behavior and possible mental health problems. The court continued the matter for disposition in May 2018.

On May 7, 2018, mother appeared and through her attorney objected to the agency's recommendation that she submit to a hair follicle analysis, arguing it was "invasive, intrusive, and is not supported by the evidence." No evidence was presented and her attorney did not argue. The juvenile court ordered J.J. removed from mother's custody and ordered mother to participate in reunification services but denied them to the alleged fathers. The court set a progress review hearing in August and a six-month review hearing in November 2018.

### **DISCUSSION**

An appealed-from judgment or order is presumed correct. (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) It is appellant's burden to raise claims of reversible error or other defect and present argument and authority on each point made. If appellant fails to do so, the appeal may be dismissed. (*In re Sade C.* (1996) 13 Cal.4th 952, 994.)

A juvenile court may exercise its dependency jurisdiction over a child if it finds, by a preponderance of the evidence, that the child is described by any of the subdivisions of section 300. Further, the court may order a child removed from parental custody at the dispositional hearing, if the court finds by clear and convincing evidence that returning the child to parental custody would place the child in substantial danger and there are no reasonable means to protect the child short of removal. (§ 361, subd. (c)(1).) In order to prevail on a challenge to the juvenile court's jurisdictional findings and dispositional

orders, an appellant would have to show that there is no substantial evidence to support the juvenile court's findings and orders.

We begin with mother's contention she was not provided proper notice of the hearings, which resulted in the juvenile court's exercise of its dependency jurisdiction. Mother does not specify the date of the hearing(s) for which she claims a lack of notice. However, the record reflects that she appeared at every hearing with her attorney and made no objection to a defect in notice. Further, the record contains evidence mother received actual notice of the jurisdictional hearing scheduled for April 19. Consequently, she cannot now argue that she was not provided proper notice of the hearings. Further, mother had notice of the allegations contained in the petition. The juvenile court asked her at the detention hearing on March 8, 2018, whether she had a copy of the petition and had read it. She stated, "I have."

As to mother's claim her trial counsel was inadequate or ineffective, she would have to show her attorney failed to act in a manner to be expected of a reasonably competent attorney and that the claimed error was prejudicial. In other words, she would have to show that it is reasonably probable she would have received a more favorable result in the absence of the error. (*In re Kristin H.* (1996) 46 Cal.App.4th 1635, 1667-1668.) In her case, she would have to show that the juvenile court would have dismissed the petition for lack of evidence.

Mother claims her attorney was inadequate because she did not meet with her to thoroughly address the agency's allegations. The allegations she disputes concern the number of prenatal visits she had and the cause of G.J.'s death. Mother contends she had 10 prenatal visits, not four as alleged in the petition. She also claims the agency falsely accused her of accidentally smothering G.J. even though the coroner determined SIDS was the cause of death. There is no evidence on the record, other than mother's statement to the court on May 7, 2018, as to whether mother's attorney met with her, but even

assuming she did not, mother was not prejudiced. The juvenile court may exercise its dependency jurisdiction based on a single allegation under section 300. Here, there were multiple allegations in the petition, which the juvenile court found true. The allegation concerning mother's prenatal visits was only one of those and the court was aware there was a discrepancy between mother's estimate and the agency's. In addition, the agency's representation regarding the cause of G.J.'s death is consistent with mother's; it alleged he died of SIDS. On this evidence, there is no reason to believe the juvenile court would have ruled in mother's favor by dismissing the petition for insufficient evidence.

We conclude mother failed to set forth a good cause showing that an arguable issue of reversible error exists and dismiss the appeal.

#### **DISPOSITION**

This appeal is dismissed.